

**PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING  
THURSDAY, DECEMBER 20, 2007 – 10:00 AM  
CITY HALL, 8<sup>TH</sup> FLOOR  
COMMISSION CONFERENCE ROOM**

**BOARD MEMBERS PRESENT**

Peter Partington, City Engineer  
Bob Dunckel, Assistant City Attorney  
Tom Terrell, Public Works Maintenance Manager  
Anthony Fajardo, Planner III  
Jolie Reed (for Carol Ingold Mordas)  
Debra Hernandez (for Mike Maloney)

**STAFF AND GUESTS**

Victor Volpi, Senior Real Estate Officer  
Dennis Girisgen, Land Development Mgr., Public Works  
Linda Strutt, Linda Strutt Consulting  
Diana Alarcon, Asst. Parking Service Mgr.  
Bill Rotella  
Michael Dumala, Tarragon Corp.  
Scott Hendrix, Tarragon Corp.  
Gary Rotsua  
Bruce Francis, Altman  
Paul Gerard, TCR  
Creston Crum, TCR  
Robert Lochrie  
Stephen Boteck, BTE  
Scott Lanout, EDSA  
Nectaria Chakas, Ruden McClosky  
Steve Tilbrook  
Greg Smitt  
Elizabeth Rivera, Recording Clerk, Prototype Inc.

**CALL TO ORDER**

Mr. Partington called the meeting to order at 10:04 a.m., and stated this was a Committee with the responsibility of advising the City Manager and City Commission on matters connected with City property and public right-of-way.

Following roll call, it was determined that a quorum was present.

**ITEM ONE:                      APPROVAL OF NOVEMBER 15, 2007 MINUTES**

Mr. Dunckel requested that Sharon Miller be moved to the staff member list, and Mike Maloney be added to the members attending.

**Motion** made by Mr. Fajardo, seconded by Mr. Terrell, to approve the amended minutes from the November 15, 2007 meeting. In a voice vote, the motion passed unanimously.

**ITEM TWO:**                      **CANOPY IN THE RIGHT-OF-WAY/SW 3 AVENUE**

Address or

General Location:        SW 3 Avenue, between SE 2 Avenue and Broward Boulevard

The item was deferred to a later time, as no owner representative was in attendance.

**ITEM THREE:**                      **SIDEWALK CLOSURE / NE 35 STREET**

Address or

General Location:        3465 Galt Ocean Drive

Mr. Steve Tilbrook, Agent for the Owner, provided a brief description of the site, including a doctor's office building and surface parking area. Mr. Tilbrook explained the existing building will be removed and replaced with a new building.

Mr. Tilbrook stated the purpose of the application is to divert pedestrian traffic to a safe pedestrian way during construction for a period of six months. Mr. Tilbrook noted the applicant would be paying for any displacement of parking meters during the full term of the construction.

Mr. Partington asked if the City parking lot area would also be included in the application. Mr. Tilbrook admitted he was unsure of the total scope, but all those issues would be covered in the revocable license. Mr. Partington questioned if a revocable license was even necessary. Mr. Dunckel noted new provisions had been added regarding construction, fees, and fines, and felt this project would fall within the rules of a revocable license.

Mr. Dunckel asked where materials would be kept if there were no setbacks. Mr. Tilbrook explained there were setback areas along the alley to be used for staging of materials. Mr. Tilbrook assured the Committee the sidewalk being closed would not be used for storage.

Mr. Partington asked for further information regarding the new sidewalk. Mr. Tilbrook stated the sidewalk would be temporary, to be replaced with landscaping upon completion of the project.

Mr. Eberson, also representing the Owner, explained no trees would be affected, and paver stones would be used for the temporary sidewalk. The sidewalk would be ten feet wide to accommodate wheelchairs. The sidewalk along Galt Ocean Drive would be the standard five foot sidewalk.

Mr. Eberson described two wooden handicap ramps on the sidewalk along Galt Ocean Drive, which would also be temporary. Signs would be posted to alert pedestrians of the sidewalk closure, and the route for the temporary detour.

Mr. Dunckel suggested signage also be added for vehicular traffic, to which Mr. Eberson agreed.

Mr. Tilbrook provided details on the affected parking areas. Existing handicap spaces would be relocated elsewhere in the lot at the applicant's expense.

Mr. Eberson confirmed for Mr. Terrell that the wooden ramps would meet handicap standards.

Mr. Dunckel asked about fencing for the area. Mr. Tilbrook provided a drawing of the fencing, and explained the chain link fence with screening would be six foot high and ten foot long, with flasher lights on the top.

Mr. Partington asked about the boundaries for the site. Mr. Tilbrook detailed the staging and storage which would be located on private property.

Ms. Hernandez asked if banner signs would be permitted on the screening for the fencing. Mr. Tilbrook assured the Committee there would be no signage placed on the fencing, other than safety signs.

Mr. Partington asked if the adjoining restaurant could claim the construction was limiting customer access to their restaurant. Mr. Eberson explained the applicant had interviewed people using the pedestrian areas between the restaurant and the nearby condos, and had received no objections. Mr. Tilbrook stated the applicant had communicated with the neighborhood associations in the vicinity.

Mr. Dunckel asked for details on the parking situation in the area. Mr. Eberson explained the applicant had performed a parking analysis, which showed very few cars park on the ocean side. Mr. Tilbrook stated there was more than sufficient parking available, and a seventeen space parking reduction would not go into effect until the construction is completed.

**Motion** made by Mr. Partington, seconded by Mr. Dunckel, to approve, subject to an agreement with the Parking Department on the loss of revenue from the spaces lost, subject to an approved MOT or TCP, and subject to an engineering permit for the temporary sidewalk on the Galt. In a voice vote, the motion passed unanimously.

**ITEM FOUR:**                    **LIGHTING IN THE RIGHT-OF-WAY / NE 2 STREET & NE 3 AVENUE**

Address or  
General Location:        210 NE 2 Street

Mr. Mike Dumala, Agent for the Owner, explained the existing poles do not meet the proper specs, and requested approval to replace the incorrect poles.

Mr. Terrell asked about the proposed easement for the disconnect, and felt the easement was remote for the right-of-way. Mr. Dumala explained the easement would be on the applicant's property.

Mr. Dunckel asked about the tree planters on 3<sup>rd</sup> Avenue, the utility boxes on 2<sup>nd</sup> Street, and the placement of the metal light poles meeting compliance with ADA. Mr. Dumala assured the Committee the project is in compliance for clearances.

Mr. Partington asked about the right-of-way at the face of the steps. Mr. Dumala stated the sidewalk would be about five feet. Mr. Dumala provided a survey of the light poles currently in place, followed by a discussion of the pole bases as they applied to ADA compliance.

Mr. Partington asked for clarification on the scope of the application. Mr. Dunckel explained the application requested a revocable license for the installation and maintenance of the DDA light poles on 2<sup>nd</sup> Street, including the sidewalk on 3<sup>rd</sup> Avenue subject to County approval.

Mr. Volpi asked if the County would be inspecting for ADA compliance on County roads, however, the City's Parking Department could not confirm what the County would inspect. Mr. Dumala explained the drawings had been submitted and approved by the County to work in the right-of-way on 3<sup>rd</sup> Avenue.

Mr. Terrell felt the motion needed to include the necessary easement. Mr. Dunckel disagreed, and explained the revocable license deals with the use of the public right-of-way, and the easement would be on private property. Mr. Terrell stated power coming from a building into a right-of-way would require a

disconnect in the right-of-way. Mr. Dunckel stated the disconnect could be included as a condition.

Mr. Terrell expressed concern over the placement of a disconnect in the easement, and felt the disconnect should be located in the closest point to the sidewalk. Mr. Dumala agreed the easement issue could be included as a condition to the application.

**Motion** made by Mr. Terrell, seconded by Mr. Dunckel, to approve the proposed application, subject to inclusion of the easement precedent to the effectiveness of the revocable license, subject to: 1) all engineering permits, 2) proper inspection for DDA, and 3) continuing obligation to maintain the DDA poles, subject to the poles being of the appropriate materials. In a voice vote, the motion passed unanimously.

**ITEM FIVE:**                      **VACATION OF EASEMENTS / MODIFICATION OF**  
**NON-VEHICULAR ACCESS LINES**

Address or

General Location:            alley between NE 5 Street and NE 6 Street, just east of  
NE 5 Avenue and NE 5 Terrace, between NE 5 Street  
and 6 Street, just west of Federal Highway

Ms. Nectaria Chakas, Agent for the Owner, provided a brief description of the site location. Ms. Chakas explained the application was requesting certain vacations allowing development of the site in accordance with the approved Site Plan.

Mr. Dunckel asked why these items were again being considered subsequent to City Commission approval. Ms. Chakas explained inconsistencies were discovered after the plat was recorded, and the items conflicted with the approved Site Plan.

Ms. Chakas described the fifteen foot utility easement, which was an alleyway vacated by the City in 1982. The City retains the utility easement until the property owner relocates the utilities and provides an alternative easement.

Ms. Chakas provided drawings showing easements and non-vehicular alleyways to be vacated which are conflicting with the Site Plan.

Mr. Dunckel asked if there were any existing utilities in the easement. Ms. Chakas confirmed there are existing utilities which will be relocated. The City will be given a fifteen foot easement along the internal driveway.

Mr. Terrell asked if the utilities would be relocated off site. Mr. Botek, a civil engineer, explained there is currently a sanitary sewer running through the easement, and the proposal was to relocate that sewer line through the center of the new driveway. The original intent was to leave it in the City easement. Mr. Terrell stated the Utilities Department was requesting any sewer on site be private. Mr. Botek stated if none of the downstream properties were affected, there would be no problem with removing the sewer line.

Mr. Dunckel expressed concern with moving forward without input from the Utilities Department. Ms. Chakas stated the applicant was amenable to meeting utility requirements. Mr. Partington suggested the issue be made a provision of the approval.

Ms. Chakas proposed a fifteen foot easement within the internal driveway as a substitute for the existing easement. Ms. Chakas stated there is a centralized parking garage with residential and retail wrapped around the garage. Mr. Partington asked if there were public rights of access in the driveway between the two streets. Ms. Chakas confirmed there was not.

Ms. Chakas confirmed for Mr. Partington that there were surface parking spots in the access driveway which would be controlled by the developer. Ms. Diane Alacor, representing the Owner, explained the parking would be metered in the right-of-way.

Mr. Dunckel stated the ultimate determination of the fifteen foot utility easement through the driveway area would be left up to the Utilities Department, and expressed concern with future repair and maintenance issues.

Dennis, Parking Department, commented the fifteen foot easement would require letters of no objection from all the Utilities on the site. Dennis expressed concern with the on-site circulation on 5<sup>th</sup>, 6<sup>th</sup>, and Federal Highway, including left turns going into the site off of 6<sup>th</sup> Street. Dennis asked if traffic and queuing analyses had been performed. Ms. Chakas explained the driveway would be shifted to the west, which would improve the current situation.

Mr. Botek stated the continuous median on 6<sup>th</sup> Street would prohibit any movement into the driveway from Federal. The turn lane would be at the intersection of 6<sup>th</sup>. Mr. Partington asked if the developer was also constructing the turn lanes. Mr. Botek stated the developer is meeting with the City Planning Department, with the County, and with FDOT to devise the best solution. Mr.

Botek assured the Committee work would not proceed without receiving input from the various Departments.

A potential area of concern would be the traffic exiting the development. Mr. Partington stated there was a proposal to increase the intersection to three lanes.

**Motion** made by Mr. Dunckel, seconded by Mr. Terrell, to approve the fifteen foot utility easement as presented. In a voice vote, the motion passed unanimously.

**Motion** made by Mr. Dunckel, seconded by Mr. Terrell, to approve the removal of the non-vehicular access line from 5<sup>th</sup> to 6<sup>th</sup>. In a voice vote, the motion passed unanimously.

**Motion** made by Mr. Dunckel, seconded by Mr. Terrell, to approve the 40 foot utility easement, subject to approval of conditions by Utilities. In a voice vote, the motion passed unanimously.

**Motion** made by Mr. Dunckel, seconded by Mr. Terrell, to approve the non-vehicular access line on 5<sup>th</sup> and 6<sup>th</sup> as presented. In a voice vote, the motion passed unanimously.

**ITEM SIX:**                      **CLOSURE OF RIGHT-OF-WAY / NE 4 AND 5 AVENUE**

Address or  
General Location:        411 NE 5 Street

Ms. Chakas provided a brief history of the application to close approximately 500 feet of 4<sup>th</sup> Avenue. Ms. Chakas stated the developers met with Mr. Bill Rotella, owner of the Red Cross Building, as requested at the November Committee meeting. Ms. Chakas provided a letter from the Chamber of Commerce, stating the Chamber has no objection to the closure. Ms. Chakas read a letter of support from Mr. Rotella.

The following agreements were reached between the applicant and Mr. Rotella:

- Applicant will make sure that access, including use of the full width, will be available to construction vehicles at all times, as needed.
- The construction will not negatively affect access to Mr. Rotella's site.
- The east half of the NE 4<sup>th</sup> Avenue street closure will be from January 1, 2008 to May 1, 2008.
- Applicant will apply their best efforts to complete all road work by July 5, 2008.

Ms. Chakas stated there may be additional time needed, as closures may be necessary to complete the road work. Mr. Rotella emphasized the agreement includes four months, from January 1 to May 1, and if there is a conflict with those dates, there can be no agreement.

Mr. Dunckel clarified the necessary road improvements may not be completed by May 1<sup>st</sup>. Mr. Rotella agreed, but stated improvements were not the same thing as a road closure. Mr. Rotella stated the road improvements could be done as necessary, but in reference to the construction, the agreement stated the road closure agreement included a “drop dead” date of May 1.

Mr. Dunckel asked what would happen if the applicant did not complete the road closure by May 1<sup>st</sup>. Mr. Rotella stated he was not sure, but that was the agreement reached by both parties. Mr. Dunckel stated the revocable license typically included an extension beyond the anticipated deadlines. Mr. Rotella emphasized an extension was what he was looking to avoid with this agreement.

Mr. Creston Crum, Agent for the Owner, stated the agreement was for four months to have the street closed, and the goal was to have all street improvements, including utilities and infrastructure, completed by July. Mr. Crum expressed concern over the May 1 date, because work will still need to be completed. Mr. Crum stated the agreement included the May 1 street closure limitation, and any additional work would be completed under the MOT permit.

Mr. Dunckel expressed concern over the “best effort” not being a guarantee, and stated that frequently anticipated dates are not met. Mr. Dunckel asked what accommodations could be made so that Mr. Rotella’s development plans would not be impeded if the construction completion date was not met. Mr. Crum stated, under the agreement, there would be no street closure allowed after May 1, and MOTs would be used to complete the work. Mr. Crum stated, under the MOT, construction could be done for three days, then stopped for a few days.

Mr. Partington reminded the applicant the City Manager might only give approval for one MOT, and applicant should not assume the City Manager would allow for extensions.

Mr. Partington asked Mr. Rotella about the possibility of road closures after the May 1 date, if needed. Mr. Rotella felt he would be unable to run his business if there were road closures after May 1.



Mr. Partington expressed concern with the agreed upon dates as the revocable license would not even be issued by January 1.

Mr. Crum listed the following activities to be completed in the allotted time frame:

- Water main running the entire length of the road
- Three sewer taps
- Storm structures
- Rebuilding of the entire street
- Repaving the entire street
- Streetscape installation

Mr. Crum determined, with a street closure, the above listed activities could be completed in a six to seven month period, and the construction would be completed under an MOT plan. Mr. Partington noted the projected timeline would already be one month behind since the license would not be issued before February.

Mr. Dunckel pointed out even with the road closure, Mr. Rotella would have vehicular access to his property. Mr. Rotella stated there would only be one lane open. Mr. Partington emphasized the improvements needed to be completed, and the road might have to be closed down for a few days. Mr. Crum stated the MOT plan provided for one-way traffic during the construction.

Mr. Rotella felt a compromise had been reached, and an agreement made on the four month time frame. Mr. Partington understood the agreement, but pointed out the developers would already be one month behind schedule because the revocable license could not be issued by January 1.

Mr. Crum stated the road closure could end by the May 1 date, but emphasized there would still be work being done beyond that date. Mr. Rotella agreed to an extra month for the road closure.

Mr. Dunckel felt there needed to be a flexibility clause allowing the City Manager to add two consecutive extensions to the timeframe. Mr. Rotella clarified for Mr. Terrell the four month timeframe was still the agreement, but the four months would begin on the start of work date.

Mr. Terrell reminded the developers the agreement requires full 24 hour access to the Utilities Department during the construction. Mr. Crum agreed there would be access for both Utilities and emergency vehicles.

**Motion** made by Mr. Dunckel, seconded by Mr. Terrell, to approve the revocable license for the closure of the east half of 4<sup>th</sup> Avenue for a period of four months, from the effective date of the revocable license. The revocable license would contain the standard extension clauses, subject to the approval of the City Manager. The provisions of the letter between Trammel Crow and Mr. Rotella would be incorporated with regard to access to his property for construction purposes. Also included is the revocable license on the closure of both lanes of 5<sup>th</sup> Avenue. The approval is subject to approval of an MOT or TCP regarding the one-way south bound traffic on 4<sup>th</sup>. In a voice vote, the motion passed unanimously.

**ITEM SEVEN:**                      **BRIDGE FOOTINGS IN THE RIGHT-OF-WAY / 11 & 12 AVENUES**

Address or

General Location:              NE 11 Avenue and 12 Avenue, ½ block north of Sunrise Boulevard

Ms. Chakas provided a brief description of the location and scope of the project.

Mr. Partington asked what approvals were needed to complete the project. Ms. Chakas explained the licensing agreements addressed the area license for the bridge, and an engineering permit would be required. Ms. Chakas confirmed for Mr. Terrell an additional revocable license would be required.

Mr. Partington asked if the drawings before the Committee were a part of the building plan. Mr. Bruce Francis from Altman explained the display boards were part of the DRC process.

Mr. Partington asked the distance between the nearest column to the edge of the road. Mr. Francis stated column-to-column is 32 feet. Mr. Partington noted there is a four foot setback with a curbed road. Mr. Francis stated the foundations would be placed below the planned utilities.

Mr. Girisgen asked about other utilities such as electrical. Mr. Francis stated the utilities had been verified by using the State one-call system.

Mr. Francis confirmed for Mr. Partington the two columns straddle an existing sidewalk. Mr. Partington asked if one column could be used. Mr. Francis stated all the previous approvals had been made based on the two columns.

Ms. Chakas pointed out the streets do not run all the way through, so the roads are used only for emergency and pedestrian access with no thru-traffic except for residents and guests.

Mr. Partington expressed concern over the potential liability if someone hit the column in the right-of-way, as well as problems which may arise from future utility needs. Ms. Chakas stated the previously drafted agreement provides for all indemnification provisions. Maintenance issues would be the responsibility of the developer.

Mr. Partington noted the project meets the setback requirements. Mr. Dunckel stated Tim Welch had signed off on the columns and footers early in the process, and, based on the sign off, the developer had continued to invest money in the planning and construction.

Mr. Dunckel asked if there would be any problems with utility equipment accessing the site. Mr. Terrell stated there would be no problems with regard to access.

Mr. Dunckel stated the revocable license would include the span over the roadway, the columns, and the footers. Mr. Partington felt a condition should be added for the developer to assure there were no utilities under the foundations, and, if there are, conflicting utilities would be relocated at the applicant's expense.

Mr. Girisgen expressed concern over a water main breaking and undermining the footing, or Utilities causing damage to the footings with heavy equipment. He felt the water main as proposed was extremely close to the edge of the footing horizontally, and asked that the water main be located so that it is sufficiently away from the footing.

Mr. Dunckel felt the indemnification issues discussed in the record were sufficient, and did not need to be a part of any motion.

**Motion** made by Mr. Dunckel, seconded by Mr. Terrell, to approve as presented and as discussed. In a voice vote, the motion passed unanimously.

**ITEM TWO:**                      **CANOPY IN THE RIGHT-OF-WAY/SW 3 AVENUE**

Address or

General Location:              SW 3 Avenue, between SE 2 Avenue and Broward  
Boulevard

Greg Smitt, a representative of the Owner, gave a brief description of the plan. Mr. Smitt confirmed for Mr. Dunckel that there would be a nine foot clearance to the bottom of the awning from grade, and that none of the supporting columns are located within the right-of-way.

Mr. Smitt stated there is a two foot overhang into the right-of-way. Mr. Dunckel explained the revocable license process, including indemnification requirements for the owner.

Mr. Partington asked why there needed to be an overhang into the right-of-way. Mr. Smitt explained the awning would protect people waiting to get in line in case of inclement weather. The awning would also change the look of the side of the building to be in theme with America's Backyard. The awning is constructed to look like the peak of a house, with the awning running along the sidewalk.

Mr. Terrell noted the two foot overhang was causing runoff into the right-of-way, which should be contained on site. Mr. Smitt pointed out the awning is much shorter than the awning next door in front of the courthouse. Mr. Partington stated the awning on the courthouse started at the face of the building, and the awning under consideration throws water from private property into the City right-of-way.

Mr. Dunckel suggested some sort of a gutter system to return the water to private property. Mr. Smitt stated the awning is supported behind the doors and from on top of the framework.

Mr. Partington questioned whether the awning crossed into the right-of-way at all with the indentation of the doors. Mr. Smitt stated the applicant would be willing to add gutters to return the water to private property.

**Motion** made by Mr. Partington, seconded by Mr. Dunckel, to approve the motion subject to the structure being guttered, and the return of the water onto private property.

Mr. Fajardo asked about the Historic Preservation zoning involved, and if the gutters would be a problem with zoning. Mr. Smitt stated the gutters would not be in conflict with zoning.

Mr. Girisgen asked that the motion include overhead clearance for power line access by the power company.

**Motion** amended by Mr. Partington, seconded by Mr. Dunckel, to approve the motion subject to the structure being guttered, and the return of the water onto private property, subject to any affected utilities signing off on the project, particularly FPL, BellSouth, and Comcast. In a voice vote, the motion passed unanimously.

There being no further business to come before the Committee the meeting adjourned at 12:23 p.m.

[Minutes prepared by K. Bierbaum, Prototype, Inc.]